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PART IV

Acts of the Dominion Legislature assented to by the Governor General

GOVERNMENT OF INDIA
MINISTRY OF LAW

New Delhi, the 3rd May, 1949

The following Acts of the Dominion Legislature received the assent of the Governor General on the 1st May, 1949 and are hereby published for general information:—

Act No. XXXVIII of 1949.

An Act to make provision for the regulation of the profession of accountants.

WHEREAS it is expedient to make provision for the regulation of the profession of accountants and for that purpose to establish an Institute of Chartered Accountants;

It is hereby enacted as follows:—

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement.—(1) This Act may be called the Chartered Accountants Act, 1949.

(2) It extends to all the Provinces of India, and also to every Acceding State to the extent to which the Dominion Legislature has power to make laws for that State with respect to the matters dealt with in this Act.

(3) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint in this behalf.

2. Interpretation.—(1) In this Act, unless there is anything repugnant in the subject or context,—

(a) “associate” means an associate member of the Institute;

(b) “chartered accountant” means a person who is a member of the Institute and who is in practice;

(c) “Council” means the Council of the Institute;

(d) “holder of a restricted certificate” means a person holding a permanent or temporary restricted certificate granted by a Provincial Government under the Restricted Certificates Rules, 1932;

(e) “Institute” means the Institute of Chartered Accountants of India constituted under this Act;

(f) "prescribed" means prescribed by regulations made under this Act;

(g) "Register" means the Register of Members maintained under this Act;

(h) "registered accountant" means any person who has been enrolled on the Register of Accountants maintained by the Central Government under the Auditors' Certificates Rules, 1932;

(i) "year" means the period commencing on the 1st day of April of any year and ending on the 31st day of March of the succeeding year.

(2) A member of the Institute shall be deemed "to be in practice", when individually or in partnership with chartered accountants, he, in consideration of remuneration received or to be received,—

(i) engages himself in the practice of accountancy; or

(ii) offers to perform or performs services involving the auditing or verification of financial transactions, books, accounts, or records or the preparation, verification or certification of financial accounting and related statements or holds himself out to the public as an accountant; or

(iii) renders professional services or assistance in or about matters of principle or detail relating to accounting procedure or the recording, presentation or certification of financial facts or data; or

(iv) renders such other services as, in the opinion of the Council, are or may be rendered by a chartered accountant;

and the words "to be in practice" with their grammatical variations and cognate expressions shall be construed accordingly.

Explanation.—An associate or a fellow of the Institute who is a salaried employee of a chartered accountant or a firm of chartered accountants shall, notwithstanding such employment, be deemed to be in practice for the limited purpose of the training of articled clerks.

CHAPTER II

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA.

3. Incorporation of the Institute.—(1) All persons whose names are entered in the Register at the commencement of this Act and all persons who may hereafter have their names entered in the Register under the provisions of this Act, so long as they continue to have their names borne on the said Register, are hereby constituted a body corporate by the name of the Institute of Chartered Accountants of India, and all such persons shall be known as members of the Institute.

(2) The Institute shall have perpetual succession and a common seal and shall have power to acquire, hold and dispose of property, both movable and immovable, and shall by its name sue or be sued.

4. Entry of names in the Register.—(1) Any of the following persons shall be entitled to have his name entered in the Register, namely,—

(i) any person who is a registered accountant or a holder of a restricted certificate at the commencement of this Act;

(ii) any person who has passed such examination and completed such training as may be prescribed for members of the Institute;

(iii) any person who has passed the examination for the Government Diploma in Accountancy or an examination recognised as equivalent thereto by the rules for the award of the Government Diploma in Accountancy

before the commencement of this Act, and who, although not duly qualified to be registered as an accountant under the Auditors' Certificates Rules, 1932, fulfils such conditions as the Central Government may specify in this behalf;

(iv) any person who, at the commencement of this Act, is engaged in the practice of accountancy in any Acceding State and who, although not possessing the requisite qualifications to be registered as an accountant under the Auditors' Certificates Rules, 1932, fulfils such conditions as the Central Government may specify in this behalf;

(v) any person who has passed such other examination and completed such other training without India as is recognised by the Council as equivalent to the examination and training prescribed for members of the Institute;

Provided that in the case of any person who is not permanently residing in India, the Council may prescribe such further conditions as it may think fit;

(vi) any person domiciled in India, who at the commencement of this Act is studying for any foreign examination and is at the same time undergoing training, whether within or without India, or, who, having passed such foreign examination, is at the commencement of this Act undergoing training, whether within or without India:

Provided that any such examination or training was recognised before the commencement of this Act for the purpose of conferring the right to be registered as an accountant under the Auditors' Certificates Rules, 1932, and provided further that such person passes the examination or completes the training within five years after the commencement of this Act.

(2) Every person belonging to the class mentioned in clause (i) of sub-section (1) shall have his name entered in the Register without the payment of any entrance fee.

(3) Every person belonging to any of the classes mentioned in clauses (ii), (iii), (iv), (v) and (vi) of sub-section (1) shall have his name entered in the Register on application being made and granted in the prescribed manner and on payment of the prescribed fee, which shall not exceed rupees three hundred in any case.

(4) The Central Government shall take such steps as may be necessary for the purpose of having the names of all persons belonging to the class mentioned in clause (i) of sub-section (1) entered in the Register.

5. Fellows and Associates.—(1) The members of the Institute shall be divided into two classes designated respectively as associates and fellows.

(2) Any person shall, on his name being entered in the Register, be deemed to have become an associate member of the Institute and be entitled to use the letters A.C.A. after his name to indicate that he is an associate member of the Institute of Chartered Accountants.

(3) An associate who has been in continuous practice in India for at least five years, whether before or after the commencement of this Act, or whether partly before and partly after the commencement of this Act, shall, on payment of the prescribed entrance fee, which shall not exceed rupees two hundred in any case, and on application made and granted in the prescribed manner, be entered in the Register as a fellow of the Institute and shall be entitled to use the letters F.C.A. after his name to indicate that he is a fellow of the Institute of Chartered Accountants.

6. Certificate of practice.—(1) No member of the Institute shall be entitled to practise unless he has obtained from the Council a certificate of practice.

(2) Every such member shall pay such annual fee, differing in amount according as he is an associate or a fellow of the Institute, for his certificate as may be prescribed, and such fee shall be due on the 1st day of April in each year.

7. Members to be known as Chartered Accountants.—Every member of the Institute in practice shall be designated as a Chartered Accountant and no person practising the profession of accountancy in India shall use any other designation, whether in addition thereto or in substitution therefor:

Provided that nothing contained in this section shall be deemed to prohibit any such person from adding any other description or letters to his name, if entitled thereto, to indicate membership of such other Institute of accountancy, whether in India or elsewhere, as may be recognised in this behalf by the Council, or any other qualification that he may possess, or to prohibit a firm, all the partners of which are members of the Institute and in practice, from being known by its firm name as Chartered Accountants.

8. Disabilities.—Notwithstanding anything contained in section 4, a person shall not be entitled to have his name entered in or borne on the Register if he—

(i) has not attained the age of twenty-one years at the time of his application for the entry of his name in the Register; or

(ii) has been adjudged by a competent Court to be of unsound mind; or

(iii) is an undischarged insolvent; or

(iv) being a discharged insolvent, has not obtained from the Court a certificate stating that his insolvency was caused by misfortune without any misconduct on his part; or

(v) has been convicted by a competent Court whether within or without India, of an offence involving moral turpitude and punishable with transportation or imprisonment or of an offence, not of a technical nature, committed by him in his professional capacity unless in respect of the offence committed he has either been granted a pardon or, on an application made by him in this behalf, the Central Government has, by an order in-writing, removed the disability; or

(vi) has been found on inquiry to have been guilty of conduct which renders him unfit to be a member of the Institute.

CHAPTER III

COUNCIL OF THE INSTITUTE

9. Constitution of the Council of the Institute.—(1) There shall be a Council of the Institute for the management of the affairs of the Institute and for discharging the functions assigned to it under this Act.

(2) The Council shall be composed of the following persons, namely,—

(a) persons elected by members of the Institute from amongst the fellows of the Institute chosen in such manner and from such regional constituencies as may be specified in this behalf by the Central Government by notification in the official Gazette; and

(b) five persons nominated by the Central Government.

10. Mode of election to Council.—(1) Elections under clause (a) of sub-section (2) of section 9 shall be conducted in the prescribed manner:

Provided that the first election under the said clause shall be held in such manner as the Central Government may prescribe.

(2) Where any dispute arises regarding any such election, the matter shall be referred to a Tribunal appointed by the Central Government in this behalf and the decision of such Tribunal shall be final.

11. Nomination in default of election or nomination.—If any body of persons referred to in section 9 fails to elect any of the members of the Council which it is empowered under that section to elect, the Central Government may nominate a person duly qualified to fill the vacancy, and any person so nominated shall be deemed to be a member of the Council as if he had been duly elected.

12. President and Vice-President.—(1) The Council at its first meeting shall elect two of its members to be respectively the President and the Vice-President thereof, and so often as the office of the President or the Vice-President becomes vacant the Council shall choose another person to be the President or the Vice-President, as the case may be:

Provided that on the first constitution of the Council a member of the Council nominated in this behalf by the Central Government shall discharge the functions of the President, until such time as a President is elected under the provisions of this sub-section.

(2) The President shall be the Chief Executive Authority of the Council.

(3) The President or the Vice-President shall hold office for a period of one year from the date on which he is chosen but so as not to extend beyond his term of office as a member of the Council, and, subject to his being a member of the Council at the relevant time, he shall be eligible for re-election.

(4) On the dissolution of the Council, the President of the Council at the time of such dissolution shall continue to hold office and discharge such administrative and other duties as may be prescribed until such time as a new President shall have been elected and shall have taken over charge of his duties.

13. Resignation of membership and casual vacancies.—(1) Any member of the Council may at any time resign his membership by writing under his hand addressed to the President, and the seat of such member shall become vacant when such resignation is notified in the Official Gazette.

(2) A member of the Council shall be deemed to have vacated his seat if he is declared by the Council to have been absent without sufficient excuse from three consecutive meetings of the Council, or if his name is, for any cause, removed from the Register under the provisions of section 20.

(3) A casual vacancy in the Council shall be filled by fresh election from the constituency concerned or by nomination by the Central Government, as the case may be, and the person elected or nominated to fill the vacancy shall hold office until the dissolution of the Council.

(4) No act done by the Council shall be called in question on the ground merely of the existence of any vacancy in, or defect in the constitution of, the Council.

14. Duration and dissolution of Council.—The duration of any Council constituted under this Act shall be three years from the date of its first meeting, on the expiry of which it shall stand dissolved and a new Council constituted in accordance with the provisions of this Act.

15. Functions of the Council.—(1) The duty of carrying out the provisions of this Act shall be vested in the Council.

(2) In particular, and without prejudice to the generality of the foregoing power, the duties of the Council shall include—

- (a) the examination of candidates for enrolment and the prescribing of fees therefor;
- (b) the regulation of the engagement and training of articled clerks;
- (c) the prescribing of qualifications for entry in the Register;
- (d) the recognition of foreign qualifications and training for purposes of enrolment;
- (e) the granting or refusal of certificates of practice under this Act;
- (f) the maintenance and publication of a Register of persons qualified to practise as chartered accountants;
- (g) the levy and collection of fees from chartered accountants, associates, members, examinees and other persons;
- (h) the removal of names from the Register and the restoration to the Register of names which have been removed;
- (i) the regulation and maintenance of the status and standard of professional qualifications of chartered accountants;
- (j) the carrying out, by financial assistance to persons other than members of the Council or in any other manner, of research in accountancy;
- (k) the maintenance of a library and publication of books and periodicals relating to accountancy; and
- (l) the exercise of disciplinary powers conferred by this Act.

16. Staff, remuneration and allowances.—(1) For the efficient performance of its duties, the Council may—

- (a) appoint a Secretary who may also, if so decided by the Council, act as Treasurer;
- (b) appoint such other officers and servants as it deems necessary;
- (c) require and take from the Secretary or from any other officer or servant of the Council such security for the due performance of his duties, as the Council considers necessary;
- (d) fix the salaries, fees, allowances and other conditions of service of the officers and servants of the Council;
- (e) with the previous sanction of the Central Government, fix the allowances of the President, Vice-President and other members of the Council.
- (f) Notwithstanding anything contained in sub-section (1), on the first constitution of the Council the Secretary shall be a person appointed by the Central Government in consultation with the Council, and he shall hold office during the pleasure of the Central Government, but so as not to exceed a period of three years from the date of his appointment.

17. Committees of the Council.—(1) The Council shall constitute from amongst its members the following Standing Committees, namely:—

- (i) an Executive Committee,
- (ii) an Examination Committee, and
- (iii) a Disciplinary Committee.

(2) The Council may also form such other committees from amongst its members as it deems necessary for the purpose of carrying out the provisions of this Act.

(3) Each of the Standing Committees shall consist of the President and the Vice-President, *ex officio*, and three other members of the Council elected by the Council:

Provided that in the case of the Disciplinary Committee, out of the members to be elected, two shall be elected by the Council, and the third nominated by the Central Government from amongst the persons nominated to the Council by the Central Government.

(4) The President and the Vice-President of the Council shall be the Chairman and Vice-Chairman respectively of each of the Standing Committees.

(5) Every member of the Standing Committee other than the Chairman and the Vice-Chairman shall hold office for one year from the date of his election, but, subject to being a member of the Council, he shall be eligible for re-election.

(6) The Standing Committees shall exercise such functions and be subject to such conditions in the exercise thereof as may be prescribed.

18. Finances of the Council.—(1) There shall be established a fund under the management and control of the Council into which shall be paid all monies received by the Council and out of which shall be met all expenses and liabilities properly incurred by the Council.

(2) The Council may invest any money for the time being standing to the credit of the fund in any Government security or in any other security approved by the Central Government.

(3) The Council shall keep proper accounts of the fund distinguishing capital from revenue.

(4) The annual accounts of the Council shall be subject to audit by a chartered accountant to be appointed annually by the Council:

Provided that no member of the Council or a person who is in partnership with such member shall be eligible for appointment as an auditor under this sub-section.

(5) As soon as may be practicable at the end of each year, but not later than the 30th day of September of the year next following, the Council shall cause to be published in the *Gazette of India* a copy of the audited accounts and the Report of the Council for that year, and copies of the said accounts and Report shall be forwarded to the Central Government and to all the members of the Institute.

(6) The Council may borrow from a scheduled bank, as defined in the Reserve Bank of India Act, 1934 (II of 1934), or from the Central Government—

(a) any money required for meeting its liabilities on capital account on the security of the fund or on the security of any other assets for the time being belonging to it, or

(b) for the purpose of meeting current liabilities pending the receipt of income, by way of temporary loan or overdraft.

CHAPTER IV.

REGISTER OF MEMBERS

19. **Register.**—(1) The Council shall maintain in the prescribed manner a Register of the Members of the Institute.

(2) The Register shall include the following particulars about every member of the Institute, namely,—

- (a) his full name, date of birth, domicile, residential and professional addresses;
- (b) the date on which his name is entered in the Register;
- (c) his qualifications;
- (d) whether he holds a certificate of practice; and
- (e) any other particulars which may be prescribed.

(3) The Council shall cause to be published in the *Gazette of India* a list of members of the Institute as on the first day of April of each year, and a copy of such list shall be sent to each member of the Institute.

(4) Every member of the Institute shall, on his name being entered in the Register, pay such annual membership fee as may be prescribed.

20. **Removal from the Register.**—(1) The Council may remove from the Register the name of any member of the Institute—

- (a) from whom a request has been received to that effect; or
- (b) who has not paid any prescribed fee required to be paid by him; or
- (c) who is found to have been subject at the time when his name was entered in the Register, or who at any time thereafter has become subject, to any of the disabilities mentioned in section 8, or who for any other reason has ceased to be entitled to have his name borne on the Register.

(2) The Council shall remove from the Register the name of any member who has been found by the High Court to have been guilty of conduct which renders him unfit to be a member of the Institute.

CHAPTER V.

MISCONDUCT.

21. **Procedure in inquiries relating to misconduct of members of Institute.**—(1) Where on receipt of information or on receipt of a complaint made to it, the Council is of opinion that any member of the Institute has been guilty of conduct which, if proved, will render him unfit to be a member of the Institute, or where a complaint against a member of the Institute has been made by or on behalf of the Central Government, the Council shall cause an inquiry to be held in such manner as may be prescribed, and the finding of the Council shall be forwarded to the High Court.

(2) On receipt of the finding, the High Court shall fix a date for the hearing of the case and shall cause notice of the day so fixed to be given to the member of the Institute concerned, the Council and to the Central Government, and shall afford such member, the Council and the Central Government an opportunity of being heard before orders are passed on the case.

(3) The High Court may, thereafter, either pass such final orders on the case as it thinks fit or refer it back for further inquiry by the Council and, upon receipt of the finding after such inquiry, deal with the case in the manner provided in sub-section (2) and pass final orders thereon.

(4) Where it appears to the High Court that the transfer of any case pending before it to another High Court will promote the ends of justice, or tend to the general convenience of the parties, it may so transfer the case, subject to such conditions, if any, as it thinks fit to impose, and the High Court, to which such case is transferred, shall deal with it as if the finding of the Council relating to the case had been forwarded to it.

Explanation.—In this section 'High Court' means the highest civil court of appeal, not including the Federal Court, to which the Council forwards its finding, exercising jurisdiction in the area in which the person whose conduct is being inquired into carries on business, or has his principal place of business at the commencement of the inquiry:

Provided that where the findings of the Council relating to two or more members of the Institute have to be forwarded by the Council to different High Courts, the Central Government shall, having regard to the ends of justice and the general convenience of the parties, determine which of the High Courts, to the exclusion of the others, shall hear the cases against all the members.

22. Misconduct defined.—For the purposes of this Act, the expression "conduct which, if proved, will render a person unfit to be a member of the Institute" shall be deemed to include any act or omission specified in the Schedule, but nothing in this section shall be construed to limit or abridge in any way the power conferred on the Council under sub-section (1) of section 21 to inquire into the conduct of any member of the Institute under any other circumstances.

CHAPTER VI.

REGIONAL COUNCILS

23. Constitution and functions of Regional Councils.—(1) The Council may constitute such Regional Councils as and when it deems fit for one or more of the regional constituencies that may be specified by the Central Government under clause (a) of sub-section (2) of section 9.

(2) The Regional Councils shall be constituted in such manner and exercise such functions as may be prescribed.

CHAPTER VII

PENALTIES

24. Penalty for falsely claiming to be a member, etc.—Any person who,—

(i) not being a member of the Institute,—

(a) represents that he is a member of the Institute; or

(b) uses the designation Chartered Accountant, or

(ii) being a member of the Institute, but not having a certificate of practice, represents that he is in practice or practises as a chartered accountant,

shall be punishable on first conviction with fine which may extend to one thousand rupees, and on any subsequent conviction with imprisonment which may extend to six months or with fine which may extend to five thousand rupees, or with both.

25. Companies not to engage in accountancy.—(1) No company, whether incorporated in India or elsewhere, shall practise as chartered accountants.

(2) If any company contravenes the provisions of sub-section (1), then, without prejudice to any other proceedings which may be taken against the company, every director, manager, secretary and any other officer thereof who is knowingly a party to such contravention shall be punishable with fine which may extend on first conviction to one thousand rupees, and on any subsequent conviction to five thousand rupees.

26. Unqualified persons not to sign documents.—(1) No person other than a member of the Institute shall sign any document on behalf of a chartered accountant or a firm of chartered accountants in his or its professional capacity.

(2) Any person contravening the provisions of sub-section (1) shall, without prejudice to any other proceedings which may be taken against him, be punishable with fine which may extend on first conviction to one thousand rupees and on any subsequent conviction with imprisonment which may extend to six months or with fine which may extend to five thousand rupees or with both.

27. Maintenance of branch offices.—(1) Where a chartered accountant or a firm of chartered accountants has more than one office in India, each one of such offices shall be in the separate charge of a member of the Institute:

Provided that the Council may in suitable cases exempt any chartered accountant or a firm of chartered accountants from the operation of this sub-section.

(2) Every chartered accountant or a firm of chartered accountants maintaining more than one office shall send to the Council a list of offices and the persons in charge thereof and shall keep the Council informed of any changes in relation thereto.

28. Sanction to prosecute.—No person shall be prosecuted under this Act except on a complaint made by or under the order of the Council or of the Central Government.

CHAPTER VIII

MISCELLANEOUS

29. Reciprocity.—(1) Where any country, specified by the Central Government in this behalf by notification in the official Gazette, prevents persons of Indian domicile from becoming members of any institution similar to the Institute of Chartered Accountants of India or from practising the profession of accountancy or subjects them to unfair discrimination in that country, no subject of any such country shall be entitled to become a member of the Institute or practise the profession of accountancy in India.

(2) Subject to the provisions of sub-section (1), the Council may prescribe the conditions, if any, subject to which foreign qualifications relating to accountancy shall be recognised for the purposes of entry in the Register.

30. Power to make regulations.—(1) The Council may, by notification in the *Gazette of India*, make regulations for the purpose of carrying out the objects of this Act, and a copy of such regulations shall be sent to each member of the Institute.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters:—

(a) the standard and conduct of examinations under this Act;

(b) the qualifications for the entry of the name of any person in the Register as a member of the Institute;

(c) the conditions under which any examination or training may be treated as equivalent to the examination and training prescribed for members of the Institute;

(d) the conditions under which any foreign qualification may be recognised;

(e) the manner in which and the conditions subject to which applications for entry in the Register may be made;

(f) the fees payable for membership of the Institute and the annual fees payable by associates and fellows of the Institute in respect of their certificates;

(g) the manner in which elections to the Council and the Regional Councils may be held;

(h) the particulars to be entered in the Register;

(i) the functions of Regional Councils;

(j) the training of articled clerks and the fixation of limits within which premia may be charged from such clerks and the cancellation of articles for misconduct or for any other sufficient cause;

(k) the regulation and maintenance of the status and standard of professional qualifications of members of the Institute;

(l) the carrying out of research in accountancy;

(m) the maintenance of a library and publication of books and periodicals on accountancy;

(n) the management of the property of the Council and the maintenance and audit of its accounts;

(o) the summoning and holding of meetings of the Council, the times and places of such meetings, the conduct of business thereat and the number of members necessary to form a quorum;

(p) the powers, duties and functions of the President and the Vice-President of the Council;

(q) the functions of the Standing and other committees and the conditions subject to which such functions shall be discharged;

(r) the terms of office, and the powers, duties and functions of the Secretary and other officers and servants of the Council;

(s) the exercise of disciplinary powers conferred by this Act; and

(t) any other matter which is required to be or may be prescribed under this Act.

(3) All regulations made by the Council under this Act shall be subject to the condition of previous publication and to the approval of the Central Government.

(4) Notwithstanding anything contained in sub-sections (1) and (2) the Central Government may frame the first regulations for the purposes mentioned in this section, and such regulations shall be deemed to have been made by the Council, and shall remain in force from the date of the coming into force of this Act, until they are amended, altered or revoked by the Council.

31. References to registered accountants, etc. to be construed as references to chartered accountants.—Any reference to a registered accountant or a certified

or qualified auditor in any other law for the time being in force or in any document whatsoever shall be construed as a reference to a chartered accountant as defined in this Act.

32. Act not to affect right of accountants to practice as such in Acceding States.—Nothing contained in this Act shall affect the right of any person who, at the commencement of this Act, is entitled to engage himself in the practice of accountancy in any Acceding State under any law in force in that State, to continue to engage himself in the practice of accountancy in that State after the commencement of this Act.

33. Amendment of section 144, Indian Companies Act, 1913.—In section 144 of the Indian Companies Act, 1913 (VII of 1913), for sub-sections (1), (2), (2A) and (2B), the following sub-section shall be substituted, namely:—

“(1) No person shall be appointed to act as an auditor of any company other than a private company, not being the subsidiary company of a public company, unless he is a chartered accountant within the meaning of the Chartered Accountants Act, 1949:

Provided that a firm whereof all the partners practising in India are chartered accountants may be appointed by its firm name to be auditor of a company and may act in its firm name.”

SCHEDULE.

(See section 22)

A chartered accountant shall be deemed to be guilty of conduct rendering him unfit to be a member of the Institute, if he—

(a) allows any person to practise in his name as a chartered accountant unless such person is also a chartered accountant and is in partnership with or employed by himself;

(b) pays or allows or agrees to pay or allow, directly or indirectly, to any person other than a member of the Institute or a retired partner or a nominee or the legal representative of such partner, any share, commission or brokerage in the fees or profits of his professional services;

(c) accepts or agrees to accept any part of the profits of the professional work of a lawyer, auctioneer, broker or other agent who is not a member of the Institute;

(d) enters into partnership with any person other than a chartered accountant or secures, either through the services of a person not qualified to be a chartered accountant or by means which are not open to a chartered accountant, any professional business;

(e) solicits clients or professional work either directly or indirectly, by circular, advertisement, personal communication or interview or by any other means;

(f) advertises his professional attainments or services, or uses any designation or expression other than chartered accountant on professional documents, visiting cards, letter-heads or sign-boards, unless it be a degree of a University established by law in India or recognised by the Central Government or a title indicating membership of the Institute of Chartered Accountants of India or of any other institution that has been recognised by the Central Government or may be recognised by the Council;

(g) discloses information acquired in the course of his professional engagement to any person other than his client, without the consent of his client, or otherwise than as required by any law for the time being in force;

(h) accepts a position as auditor previously held by another chartered accountant without first communicating with him in writing;

(i) accepts an appointment as auditor of a company without first ascertaining from it whether the requirements of section 144 of the Indian Companies Act, 1913 (VII of 1913) as respects the appointment of auditors or, if the company is registered in an Acceding State, the provisions of any similar law for the time being in force in that State, have been duly complied with;

(j) certifies or submits in his name or in the name of his firm a report of an examination of financial statements unless the examination of such statements and the related records has been made by him or by a partner or an employee in his firm or by another chartered accountant;

(k) permits his name or the name of his firm to be used in connection with an estimate of earnings contingent upon future transactions in a manner which may lead to the belief that he vouches for the accuracy of the forecast;

(l) expresses his opinion on financial statements of any business or any enterprise in which he, his firm or a partner in his firm has a substantial interest, unless he discloses the interest also in his report;

(m) charges in respect of any professional employment fees which are based on a percentage of profits or which are contingent on results;

(n) engages in any business or occupation other than the profession of chartered accountants unless permitted by the Council so to engage:

Provided that nothing contained herein shall disentitle a chartered accountant from being a director of a company, unless he or any of his partners is interested in such company as an auditor;

(o) fails to disclose a material fact known to him which is not disclosed in a financial statement, but disclosure of which is necessary to make the financial statement not misleading;

(p) fails to report a material misstatement known to him to appear in a financial statement with which he is concerned in a professional capacity;

(q) is grossly negligent in the conduct of his professional duties;

(r) fails to obtain sufficient information to warrant the expression of an opinion or his exceptions are sufficiently material to negate the expression of an opinion;

(s) fails to invite attention to any material departure from the generally accepted procedure of audit applicable to the circumstances;

(t) fails to keep monies of his client in a separate banking account or to use such monies for purposes for which they are intended;

(u) includes in any statement, return or form to be submitted to the Council any particulars knowing them to be false;

(v) is guilty of such other act or omission in his professional capacity as may be specified by the Council in this behalf, by notification in the Gazette of India.

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ACT No. XXXIX OF 1949.*An Act further to amend the Cinematograph Act, 1918.*

WHEREAS it is expedient further to amend the Cinematograph Act, 1918 (II of 1918), for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. Short title and commencement.—(1) This Act may be called the Cinematograph (Amendment) Act, 1949.

(2) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint.

2. Amendment of section 2, Act II of 1918.—In section 2 of the Cinematograph Act, 1918 (II of 1918) (hereinafter referred to as the said Act), before the definition of "Cinematograph", the following definition shall be inserted, namely,—

“adult” means a person who has completed his eighteenth year;

3. Amendment of section 5, Act II of 1918.—After sub-section (2) of section 5 of the said Act, the following sub-section shall be inserted, namely:—

“(2A) A condition shall also be inserted in every licence that the licensee will not exhibit, or permit to be exhibited, in such place to any person who is not an adult any film which has been certified by an authority constituted under section 7 as suitable for public exhibition restricted to adults.”

4. Amendment of section 7, Act II of 1918.—In section 7 of the said Act,—

(i) in sub-section (1), for the words “suitable for public exhibition” the words “suitable for unrestricted public exhibition or for public exhibition restricted to adults and children in arms, below the age of three” shall be substituted;

(ii) in sub-section (2), for the first sentence, the following sentence shall be substituted, namely:—

“If any such authority after examination considers that a film is suitable for unrestricted public exhibition, or that although not suitable for such exhibition, it is suitable for public exhibition restricted to adults and children in arms, below the age of three, it shall grant to the person applying for a certificate in respect of the film, a “U” certificate in the former case and an “A” certificate in the latter case, and shall in either case cause the film to be marked in the prescribed manner.”;

(iii) after sub-section (2), the following sub-section shall be inserted, namely:—

“(2A) If the person applying for a certificate in respect of the film is aggrieved by the decision of the authority to grant an “A” certificate for it, he may, within thirty days from the date of such decision, appeal to the Provincial Government constituting the authority for a reconsideration of the matter, and the Provincial Government may either reject the appeal or direct the grant of a “U” certificate instead of an “A” certificate for the film.”

ACT NO. XL OF 1949.

An Act to repeal certain enactments and to amend certain other enactments.

WHEREAS it is expedient that certain enactments which are spent or have otherwise become unnecessary, or have ceased to be in force otherwise than by expressed specific repeal, should be expressly and specifically repealed;

AND WHEREAS it is expedient that certain amendments should be made in certain other enactments;

It is hereby enacted as follows:—

1. Short title.—This Act may be called the Repealing and Amending Act, 1949.

2. Repeal of certain enactments.—The enactments specified in the First Schedule are hereby repealed.

3. Amendment of certain enactments.—The enactments specified in the Second Schedule are hereby amended to the extent and in the manner mentioned in the fourth column thereof.

4. Savings.—The repeal by this Act of any enactment shall not affect any other enactment in which the repealed enactment has been applied, incorporated or referred to;

and this Act shall not affect the validity, invalidity, effect or consequences of anything already done or suffered, or any right, title, obligation or liability already acquired, accrued or incurred, or any remedy or proceeding in respect thereof, or any release or discharge of or from any debt, penalty, obligation, liability, claim or demand, or any indemnity already granted, or the proof of any past act or thing;

nor shall this Act affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that the same respectively may have been in any manner affirmed, recognised or derived by, in or from any enactment hereby repealed;

nor shall the repeal by this Act of any enactment revive or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force.

THE FIRST SCHEDULE

Repeals

(See section 2)

Year	No.	Short title
1	2	3
<i>Acts of the Central Legislature</i>		
1923	XXV	The Moorshedabad (Amendment) Act, 1923.
1929	VIII	The Indian Soft Coke Cess Act, 1929.
1942	X	The Indian Patents and Designs (Extension of Time) Act, 1942.
1946	XXIII	The Reserve Bank of India (Amendment) Act, 1946.
1947	XI	The Reserve Bank of India (Amendment) Act, 1947.

Year	No.	Short title
1	2	3
1947	XXIII	The Reserve Bank of India (Second Amendment) Act, 1947.
1947	XXXVIII	The Indian Patents and Designs (Extension of Time) Amendment Act, 1947.
		<i>Ordinances made by the Governor-General</i>
1942	V	The Motor Vehicles (Drivers) Ordinance, 1942.
1943	XX	The Reserve Bank of India (Limitation of Dividend) Ordinance, 1943.
1943	XLIII	The Penal Deductions Ordinance, 1943.
1945	XXXII	The Bengal Textiles Association Ordinance, 1945.
1947	XXVIII	The Cotton Textiles Equalisation Fund Ordinance, 1947.

THE SECOND SCHEDULE

Amendments

(See section 3)

Year	No.	Short title	Amendments
1	2	3	4
<i>Acts of the Central Legislature</i>			
1869	IV	The Indian Divorce Act, 1869.	In sub-section (1) of section 3, for clauses (a) to (h), the following clauses shall be substituted :— “(a) in a Governor's Province, the High Court of that Province ; (b) in Delhi, the High Court of East Punjab ; (c) in Ajmer-Merwara, the High Court at Allahabad ; (d) in Coorg, the High Court at Madras ; (e) in the Andaman and Nicobar Islands, the High Court at Calcutta ; (f) in Panth Piploda, the High Court at Bombay ; and ” and clause (i) shall be relettered as clause (g). In section 83, for the words “any Government in the Provinces”, the words “the Central Government or any Provincial Government” shall be substituted.
1872	I	The Indian Evidence Act, 1872.	In sub-section (3) of section 19A, for the words “British Burma”, the word “Burma” shall be substituted.
1878	VIII	The Sea Customs Act, 1878	In sub-section (3) of section 19A, for the words “British Burma”, the word “Burma” shall be substituted.
1890	VIII	The Guardians and Wards Act, 1890.	In sub-section (2) of section 1, the word “and” at the end shall be omitted.
1923	XXI	The Indian Merchant Shipping Act, 1923.	(a) For clause (ii) of sub-section (1) of section 224, the following clause shall be substituted :— “(ii) in the case of any other ship, a certificate to be called ‘an Indian load-line certificate’.”

Year	No.	Short title	Amendments
1	2	3	4
1934	II	The Reserve Bank of India Act, 1934.	(b) In clause (ii) of section 224G, for the words "British India load-line certificate" the words "Indian load-line certificate" shall be substituted. (c) In sub-section (1) of section 224K, for the words "British India load-line certificates", the words "Indian load-line certificates" shall be substituted. (d) In section 224L, for the words "a British India load-line certificate", the words "an Indian load-line certificate" shall be substituted. In sub-section (8) of section 17, for the words "share capital", wherever they occur, the word "capital" shall be substituted.
1938	XXVI	The Employment of Children Act, 1938.	In section 8C, for the words "as to whether any child has or has not completed his twelfth or fifteenth year, as the case may be", the words "as to the age of any child who is employed or is permitted to work by the employer" shall be substituted.
1940	V	The Trade Marks Act, 1940.	(a) In section 19, sub-section (3) of section 22, the Explanation to sub-section (2) of section 48 and sub-section (3) of section 68, for the words " Indian State", wherever they occur, the words " Acceding State or other Indian State" shall be substituted. (b) In clause (a) of sub-section (3) of section 68, for the words " a country outside the Provinces ", the words " an Acceding State or of a country outside India " shall be substituted.
1940	XXIII	The Drugs Act, 1940	(a) In clause (d) of section 3 and in the Schedule, for the words " League of Nations ", the words " World Health Organisation " shall be substituted. (b) In clause (4) of sub-section (2) of section 6, for the words " Director General, Indian Medical Service ", the words " Director General of Health Services " shall be substituted.
1946	IX	The Indian Oilseeds Committee Act, 1946.	For the words " Indian Oilseeds Committee ", wherever they occur, the words " Indian Central Oilseeds Committee " shall be substituted.
1947	II	The Prevention of Corruption Act, 1947.	(a) In clause (a) of section 6, before the words " Central Government ", where they occur at the end, the words " of the " shall be inserted. (b) In clause (b) of the same section, before the words " Provincial Government ", where they occur at the end, the words " of the " shall be inserted.
1947	XXXIV	The Indian Boilers (Amendment) Act, 1947.	In clause (ccc) of section 2, before the words " does not form ", the word " which " shall be inserted.
1948	X	The Insurance (Amendment) Act, 1948.	In section 2, after the words, figures and brackets " In sub-section (1) of section 4 " the words and figures " of the Insurance Act, 1938 " shall be inserted.

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Year	No.	Short title	Amendment
1	2	3	4
1948	XV	The Industrial Finance Corporation Act, 1948.	For sub-section (2) of section 1, the following sub-section shall be substituted, namely :— “(2) It extends to all the Provinces of India, and also to every Acceding State to the extent to which the Dominion Legislature has power to make laws for that State with respect to the matters dealt with in this Act.”
1948	XXXVII	The Census Act, 1948	Ditto.
1948	XLVI	The Coal Mines Provident Fund and Bonus Schemes Act, 1948.	Ditto.
1948	LIII	The Mines and Minerals (Regulation and Development) Act, 1948.	Ditto.
1948	LXI	The Central Silk Board Act, 1948.	Ditto.
1948	LXIII	The Factories Act, 1948	(a) For sub-section (2) of section 1, the following sub-section shall be substituted, namely :— “(2) It extends to all the Provinces of India, and also to every Acceding State to the extent to which the Dominion Legislature has power to make laws for that State with respect to the matters dealt with in this Act.” (b) In sub-section (3) of section 7, for the words “within thirty days”, the words “at least thirty days” shall be substituted. (c) In section 55, for the words “The period”, the words “The periods of work” shall be substituted. (d) In sub-section (4) of section 79, for the words “If, for the purpose”, the words “For the purpose” shall be substituted. (e) In section 82, for the word “workers”, the word “worker” shall be substituted.
1870	VI	The Bombay Port Trust Act, 1870.	In sub-section (1) of section 6, for the word “thirteen”, the word “fourteen” shall be substituted.

by Legislature

K. V. K. SUNDARAM,
Secy. to the Govt. of India